

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

There are no changes to the initial statement of reasons.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action adopting Section 345.00 in Article 4.7, Chapter 1, Division 1, of Title 13, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on March 4, 2011, and made available to the public from March 4, 2011 through April 18, 2011. The following individuals provided comments in letters received by the department through U.S. Mail:

Identifying Number	Commenter Name, Business Name and Address
L-1	Ken Harrison, Co-Chairman San Diego County Traffic School Association
L-2	Sheri Noel, Bookkeeper I'll Never Speed Again Comedy Traffic School
L-3	Cheryl Harrison, Operations Manager California Comedy Traffic School
L-4	Paul R. Burns
L-5	Nancy Geiss
L-6	Gary Patterson

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L-7	Randy Patterson
L-8	Guillermo A. Brun Academia de Trafico En Espanol
L-9	Glen Babel A-Plaza Driving School
L-10	Jose Caero La Mejor Clase en Espanol
L-11	Vickie Harjo, Telephone Reservations Fun N Cheap Comedy Traffic School
L-12	Jeff Hodge
L-13	Ronald W. Seidl
L-14	Laurie Bailey
L-15	Gilbert A Machado
L-16	Bill Connor
L-17	Bruce Mulligan
L-18	Verma Davis
L-19	Donna S. Barber
L-20	David McCartney(sp)
L-21	Gabe Roberson <i>Letter submitted at Public Hearing</i> Traffic Safety Consultants, Inc.

One letter was received by facsimile.

Identifying Number	Commenter Name, Business Name and Address
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F-1	Bruce Elkins, Owner/Operator Cheap School dba Bruce Elkins Traffic School
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Schools for Traffic Violators - Fees
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Six letters were received by email. One letter, received on March 29, 2011 from Brett Elkins (E-2) requested a public hearing be held.

Identifying Number	Commenter Name, Business Name and Address
E-1	Bill Niles, President California Traffic School Association
E-2	Brett Elkins <i>Submitted Hearing Request via Email</i> Traffic Safety Consultants, Inc.
E-3	Bruce Elkins, Owner/Operator Cheap School dba Bruce Elkins Traffic School
E-4	William Niles, President Interactive Safety Education, Inc.
E-5	Loree Taylor, Operator Traffic Safety Center, Inc.
E-6	Elinor Niles, President Highway Blues, Inc.

A public hearing was held on April 11, 2011 at 10:00 a.m. at the Department of Motor Vehicles' headquarters Training Annex. The following interested parties appeared and presented comment at the public hearing:

H-1	Brett Elkins Traffic Safety Consultants
H-2	Gabe Roberson Traffic Safety Consultants
H-3	Mike Belote California Advocates/NADSE

Comments Objecting to the Initial Classroom Application Fee

- The proposed application fee of \$100 represents a 30% increase to current fees.
Commenters: L-1

- The fee increase is substantial in nature and will financially impact virtually every classroom traffic school.
Commenters: F-1, E-3
- Proposed fee increase will facilitate the closure of many classroom traffic schools as has been the trend for the past several years.
Commenters: F-1, E-3

Department's Response: Vehicle Code section 11208(b) requires the department to establish fees sufficient to defray the actual costs of administering the department's Traffic Violator School (TVS) Program. The department based the proposed fees for classroom licensing and renewal on the current administrative costs.

In addition, the Occupational Licensing Status Information System (OLSIS) requires significant modification to provide specific classroom and schedule information to the public. The cost of this alteration, as well as the increased labor to update classroom and schedule information, substantiates the licensing fee for a classroom. This cost is not associated with the home study or internet programs.

While traffic violator school fees have not increased in the past 25 years, the administrative costs of the program have increased. The department calculated the total average expense to be \$120, but established a somewhat lower fee to account for the anticipated reduction in administrative costs based on changes to streamline the licensing process.

- One of the purposes of AB 2499 was to put any increased cost of DMV regulations and monitoring onto violators. It should not be on the backs of hard working people such as my employer and myself.
Commenters: L-2, L-3, L-11

Department's Response: Assembly Bill (AB) 2499 specifies that licensing fees are to be paid by the licensee. It also provides for an administrative fee to be collected from each traffic violator by the courts to pay for all program costs except licensing.

Comments Describing Possible Undue Burden Placed on Classroom Programs

- Fees place an undue burden on classroom traffic schools at a time when the department must ensure equality in the process between classroom and online providers.
Commenters: E-2
- Classroom traffic schools will now face large fee increases that clearly benefit home study over traditional walk-in traffic schools.
Commenters: E-2
- DMV should establish fees that create a level playing field between classroom and home study.
Commenters: L-21, H-2

Department's Response: The statutory requirement is to establish fees that are sufficient to cover the department's administrative cost. It would not be reasonable to create fees that have one type of school subsidizing the administrative costs for other types of schools. The department is not charged with creating a level playing field by manipulating licensing fees.

Comments Citing a Possible Unequal Fee Structure

- Classroom traffic schools under the DMV's proposed fee structure will in some cases create a situation where a classroom TVS will be paying 250 times the renewal fees of an online traffic school for a statewide listing.
Commenters: E-2
- Homestudy schools will pay only \$100 per year for its entire renewal fee and will be listed in every one of the 58 counties statewide.
Commenters: E-2
- DMV is counting on income from classroom licensing fees to fund the program and they are likely to decrease.
Commenters: H-1
- Classroom schools will pay 10 times the fees that will be paid by a home study school.
Commenters: H-1

Department's Response: Fees for licensing classrooms are per classroom. A school that has a hundred classrooms will pay significantly higher fees, but will have the ability to generate significantly higher income as well. The license fee for a classroom does not fund any other program activities.

- DMV will be collecting fees from 600,000 traffic violators that are not now purchasing certificates at \$1.50, at the new rate of \$3 per violator.

There will be 200 new schools, but the fee increases are directed at existing classroom schools.

Commenters: H-1

Department's Response: AB 2499 specifies that licensing fees are to be paid by the licensee. The licensing fees are identical for all licenses, regardless of modality of course offered, except for classroom licensing fees and curriculum approval fees. The department based the proposed fee for classroom licensing and renewal on the current administrative costs.

AB 2499 provides for an administrative fee to be collected from each traffic violator by the courts to pay for all program costs except licensing. All traffic violators referred to a traffic violator school will pay the \$3 administrative fee, regardless of the modality of the course completed.

- This proposal and the difference between classroom and online schools are so great (and onerous) that it's a reasonable concern for the industry.

Commenters: E-2

Department's Response: The basic licensing costs are identical for all applicants, regardless of the instructional modality offered by the school. It is true that schools offering only home study and/or internet courses will not incur the costs related to licensing classrooms; however, schools that only offer classroom instruction will not incur the costs associated with the development and maintenance of an interactive internet training program or for material publication and shipping costs associated with a home study program.

Each instructional modality carries costs specific to that business structure. An example of that difference is reflected in the fee for curriculum approval. A classroom program will pay a smaller fee for curriculum review than a home study or internet program because the cost to review the program is much less. Also, home study and internet courses require a significantly higher bond amount, which is an increased cost not applied to a classroom program.

Comments Specifying Department Inspections, Monitoring and Follow Up

- Unless there is a complaint, the DMV does not reinspect classroom locations annually and this \$100 per location/per year fee is being charged for services not being provided.

Commenters: E-2

- Once a classroom location is inspected and approved, there is no additional cost to DMV - thus no need for a renewal fee.

Commenters: L-1

- A fee for renewal of the classroom location is uncalled for since DMV does not do any follow-up work, re-evaluation or revision to our previously approved locations.
Commenters: L-8, L-9, L-10
- DMV has each of my classroom locations in its computer system and thus, removing a few older licensed locations should be relatively simple for the department.
Commenters: F-1, E-3
- Can the DMV demonstrate that over the past 5-10 years that classroom locations, that the DMV has already inspected and approved, have become such an overwhelming problem each year that the DMV must extract a doubling of fees from each licensee?
Commenters: E-6
- If the DMV wants to review the status of a classroom location, all they have to do is have their field inspectors check it over whenever they are monitoring a class being taught at that location.
Commenters: E-6
- The DMV could save inspection time and money by understanding that most classes are held in known chain hotels or restaurants, already used by other traffic schools and obviously approved for public use by their local jurisdictions.
Commenters: L-1

Department's Response: The cost to inspect a potential classroom location is not a significant portion of the administrative cost. The cost to process the application, update the department's records, integrate the classroom into OLSIS and verify the use of the classroom on OLSIS is the major portion of the cost. This cost is the same with an original and a renewal application. Even though a renewal of a location may not be reinspected, it does not eliminate the verification process to ensure a school continues to comply with all requirements and continues to be authorized by lease or other agreement to use the facility. A significant portion of the cost is based on on-going activities related to classroom instruction; the department must process schedules and track new and cancelled courses throughout the year.

Comments Objecting to the Classroom Renewal Fee

- Several long-time traffic schools were put out of business in the last few years by DMV's insistence on collecting the current \$50 per year fee, two years in advance.

Commenters: L-1

Department's Response: Statute provides for a one year renewal of owner and operator licenses, but also authorizes the department to increase this to two years. Regulations were adopted to effectuate this change; however, the department received many complaints from the TVS industry that paying two years licensing fees at once is a financial hardship. The amended regulations specify a one year license. The return to a one year license term is intended to benefit schools that offer classroom instruction.

- Day to day operations sometimes only net a \$100 profit after paying a hotel and instructor. Asking my boss to pay DMV up to 25% of his profit is unacceptable.

Commenters: L-2, L-3, L-11

Department's Response: The department based the proposed fee for classroom renewal on the current administrative costs. The department calculated the total average expense to be \$120, but established a somewhat lower fee account for anticipated reduction in administrative costs based on changes to streamline the licensing process

- Should the proposed annual \$100 per classroom location renewal fee be implemented, my school may go out of business or severely reduce the number of classroom locations.

Commenters: L-4, L-5, L-6, L-7, L-12, L-13, L-14, L-15, L-16, L-17, L-18, L-19

Department's Response: The department based the proposed fee for classroom licensing and renewal on the current administrative costs as required by Vehicle Code section 11208(b). The fees are per classroom as are the licensing and administrative costs. If, at some point in the future, the fees prove to be insufficient to defray the department's cost for any reason, the regulation will be modified to establish fees that are sufficient.

- Classroom schools are placed at a competitive disadvantage because of classroom renewal fees because home study does not pay classroom fees.

Commenters: L-21, H-2

Department's Response: AB 2499 specifies that licensing fees are to be paid by the licensee in an amount sufficient to defray the department administrative costs. The basic licensing costs are identical for all applicants, regardless of the modality of instruction that will be offered by the school. It is true that schools

that offer only home study and/or internet courses do not have costs for licensing classrooms. However, schools that offer classroom instruction only do not incur costs for development of an interactive training program on the internet, web services, ongoing technical support, or for publication and shipping of home study materials. The primary difference between the two business models is that the licensing fees for classrooms come to the department to defray departmental costs, while the costs relative to home study or internet are not paid to the department. Each instructional modality has costs unique to that business structure. A reflection of that is the different fee for approval of curriculum, which has a much lower fee for classroom instruction because the cost to review and approve it is less. Home study and Internet courses require a significantly higher bond amount, which is an increased cost not applied to classroom instruction.

The department proposed fees for specific licenses and processes to ensure that a licensee pays only for the services required from the department. Each license fee is based on the department's current cost to process the application and issue the license. It would be inappropriate to attribute an administrative cost to schools that do not require that process/service.

Comments Describing Excessive, Substantial or Unreasonable Classroom Renewal Fee

- The proposed 400% renewal fee increase for every classroom TVS location is substantial in nature and will financially impact [my] school along with many other classroom traffic schools.
Commenters: F-1, E-3
- First fee increase of this magnitude making classroom location renewal fees both unreasonable and cost prohibitive.
Commenters: F-1, E-3
- Classroom location renewal fees are excessive.
Commenters: E-1, E-4, E-5
- The increased fee for classroom renewal is excessive and cannot be justified.
Commenters: L-21, H-2

Department's Response: The current statutory fee for renewal of a classroom is \$50; the proposed fee is \$100. This does not constitute a 400% increase. Vehicle Code section 11208(b) requires the department to establish fees sufficient to defray the actual cost to the department. The department based the proposed fee for classroom renewal on the current administrative costs.

Comments Describing Possible Unequal Fee Structure – Classroom Renewal

- Proposal creates an unfair advantage for home study schools because they will only be paying a single school renewal fee of \$100 and having access to every traffic school student in 58 counties while [our] classroom which holds classes in just over 25 counties, will pay several hundred times this amount in fees.

Commenters: F-1, E-3

- Estimates the fees will increase our renewal expense by an additional \$12,000 annually. The difference between my classroom school's renewal cost and an online school renewal is approximately \$24,000 more every year.

Commenters: F-1, E-3

- Any classroom traffic school that uses two locations or more will be paying a significant multiple of 200% or more than a statewide online traffic school for much less student coverage.

Commenters: F-1, E-3

- There should be little additional paperwork between a classroom and online school renewal. However, based upon the department's renewal proposal, a classroom renewal would result in approximately 200 times more DMV employee hours than a home-study school renewal license to justify this large difference in pricing.

Commenters: F-1, E-3

Department's Response: The renewal fees for all schools regardless of instructional modality are the same except for licensee's branch or classroom locations. Fees for licensing classrooms are per classroom. A school that has a hundred classrooms will pay significantly higher fees, but will have the ability to generate significantly higher income as well. Home study and internet schools will have costs associated with that business structure, which do not apply to classroom instruction. Home study and Internet courses require a significantly higher bond amount, which is an increased cost not applied to classroom instruction.

Currently, many schools have classrooms that are rarely used; instead, students are re-directed to one location in order to have a substantial number of students in a single classroom. In many cases school do not renew classrooms, but then license the same classroom a few months after the expiration date, which increases the workload for the department. These practices have provided a distinct advantage to large businesses, making it difficult for the TVS small businesses to compete. Establishing fees for classrooms to an amount sufficient to defray administrative costs will provide a level playing field for all classroom schools. The department does anticipate that schools will continue to license classrooms that are not utilized for conducting classes, but rather constitute

advertising for a school. Currently there are 2,600 classroom locations and only 400,000 traffic violators that choose to attend a classroom course. If a course was scheduled twice a month at every classroom, there would only be 5 students in a class, which would likely not cover the overhead for the course.

- The increase from \$70 to \$100 equals a 43% increase...what is the justification for the increase?

Commenters: E-1, E-4, E-5

Department's Response: The department based the proposed fee for classroom licensing and renewal on the current administrative costs as required by Vehicle Code section 11208(b). If, at some point in the future, the fees prove to be insufficient to defray the department's cost for any reason, the regulations will be modified to establish fees that are sufficient.

Comments Pertaining to Frequently Used Classroom Locations

- During the year, a DMV inspector will visit classroom locations on a regular basis when they fulfill their function to monitor traffic safety programs presented in classrooms. If a classroom location facility itself has any basic problems that could be annotated on the monitoring report. If not so noted, the presumption should be that the particular location continues to be suitable for holding TVS classes.

Commenters: E-1, E-4, E-5

- Many TVS licensees use the same identical classroom locations and each of them have also paid the DMV the \$100 fee for getting the initial approval. Therefore, any classroom location renewal fee(s) should not be required, nominal, or at best limited to \$25 per year.

Commenters: E-1, E-4, E-5

- Many TVS licensees use the same identical classroom locations and each of them have also paid the DMV the \$100 fee for getting the initial approval. DMV should not use this fact as a revenue generating mechanism.

Commenters: E-1

- Administrative fees collected by the courts will pay for monitoring of classrooms. Since a monitor will visit each classroom once a year, it is unnecessary to re verify that the classroom meets required standards.

Commenters: L-21, H-2

- Many schools use the same locations for a classroom; therefore they have already been inspected.

Commenters: L-21, H-2

Department's Response: The department based the proposed fee for classroom renewal on the current administrative costs. The cost to inspect a classroom location is not a significant portion of the administrative costs. The cost to process a renewal application, update the department's records, include the classroom on OLSIS, verify the use of the classroom on OLSIS is the major portion of the cost and this cost is the same with an original and a renewal application. A substantial portion of the administrative cost is based on ongoing administrative tasks throughout the licensing year related to classrooms. Even though a renewal of a location may not be reinspected, it does not eliminate the process to verify that a specific school continues to comply with all requirements and is authorized by lease or other agreement to use that facility. In many cases schools do not renew classrooms, but then license the same classroom a few months after the expiration date, which increases the workload for the department. The department calculated the total average expense to be \$120, but established a somewhat lower fee account for anticipated reduction in administrative costs based on changes to streamline the licensing process.

- How can the DMV justify doubling the costs to renew an already pre-approved classroom location?

Commenters: E-6

Department's Response: Vehicle Code section 11208(b) requires the department to establish fees sufficient to defray the actual cost to the department. The department based the proposed fee for classroom licensing and renewal on the current administrative costs. The costs related to classroom locations go beyond the obvious inspection and application processing costs. The department incurs additional administrative costs tracking the use of classrooms by the schools for the TVS location list and processing/reviewing classroom schedules. In addition, the Occupational Licensing Status Information System requires significant modification to provide specific classroom and schedule information to the public. The cost of this alteration as well as the increased labor to update classroom and schedule information is attributed to the licensing fee for a classroom. This cost is not associated with the TVS home study or Internet programs. While TVS fees have not increased in the past 25 years, the administrative costs of the program have increased.

Comments Citing Economic Impact

- How could the DMV state in their Notice of Proposed Regulatory Action that:

“...this regulation is not expected . . . to eliminate jobs . . . in California . . . or reduce . . . businesses doing business in. California” and, “The proposed regulatory action will not affect small business. . . ”

These proposed fees will be the direct cause of driving some classroom-based traffic schools out of business; this prediction is almost a guarantee. What is the DMV's basis for making the above comments in the *Determinations* section of their Notice? They need to try and justify this action.

Commenters: E-6

Department's Response: The department does not believe that the regulations will eliminate jobs or reduce the number of businesses in California. AB 2499 recast the Traffic Violator School program to provide that fees paid by licensees be sufficient to pay the administrative costs of licensing. The proposed fees meet that requirement. Traffic Violator Schools are allowed to charge whatever fee is necessary to ensure a profitable enterprise. If operating costs increase, the fees charged to traffic violators may be increased accordingly. There is a monetary motivation for a driver to take a traffic violator school course. The cost of enrolling in and completing a program poses a smaller financial hardship than the prospect of increased insurance costs or accruing point violations that may result in a suspension of the driver license.

AB 2499 also provides for licensing of schools that offer instruction in home study and internet modalities. The law change could impact some businesses in California that offer classroom instruction only. Adding home study and internet courses to the department's Traffic Violator School program may result in a decrease in the cost to do business for those schools. In addition, licensed home study and internet courses will be able to accept students from any county without the expenses related to approval on a county by county basis. This proposed action did not create that impact.

Currently, many schools have classrooms that are rarely used; instead, students are re-directed to one location in order to have a substantial number of students in a single classroom. This practice has provided a distinct advantage to large businesses, making it difficult for the TVS small businesses to compete. Establishing fees for classrooms to an amount sufficient to defray administrative costs will provide a level playing field for all classroom schools. The department does anticipate that schools will not continue to license classrooms that are not utilized for conducting classes, but rather constitute advertising for a school. Currently there are 2,600 classroom locations and only 400,000 traffic violators that choose to attend a classroom course. If a course was scheduled twice a month at every classroom, there would only be 5 students in a class, which would likely not cover the overhead for the course.

In assessing the overall impact of the legislation, the department also determined that allowing licensing of home study and internet courses, with increased access to students throughout the state, will encourage programs located in other states to apply to do business in California. The potential increase in business would also require the licensing of owners, business offices, operators and instructors. It is likely that this will represent new employment opportunities for California residents.

- The licensing fee should be a one-time fee for every school. The proposed fees will result in schools going out of business, and then there will no longer be sufficient funding for the program.

Commenters: H-1

Department's Response: Vehicle Code section 11208(b) requires the department to establish fees sufficient to defray the actual cost to the department. The department based the proposed fees on the current administrative costs. The department proposed fees for specific licenses and processes to ensure that a licensee pays only for the services required from the department. Each license fee is based on the department's current cost to process the application and issue the license. It would not be reasonable to require a school to pay for services it does not need in an effort to subsidize schools that do need additional services.

If, at some point in the future, the fees prove to be insufficient to defray the department's cost for any reason, the regulation will be modified to establish fees that are sufficient. Traffic violator schools set their own fees for courses; there is no restriction on the fees that can be charged.

- The Senate Appropriation analysis indicates that the fee to set up a data base to track TVS completions would be \$40,000, while the cost to set up regulations would be minor—but the schools are being required to pay fees to cover this.

Commenters: H-1

Department's Response: The cost of the database to track TVS completion information is funded through the court collected administrative fee, which is paid by traffic violators, not the school.

The costs to adopt regulations are minor, but that does not alter the mandate of Vehicle Code section 11208(b) which requires the department to establish fees sufficient to defray the actual cost to the department.

- The Assembly Legislative analysis indicates that the bill is proposed to provide uniform statewide regulations and uniform regulation of TVS. The fee structure is not uniform.

Commenters: H-1

- The department's determination that the regulatory action will not have a significant statewide adverse economic impact is incorrect. Classroom renewal fees are repressive and will cause reduction in classroom locations and reduce business activity.

Commenters: L-21, H-2

Department's Response: This regulatory proposal is limited to establishing the fees for the traffic violator school program. Vehicle Code section 11208(b) requires the department to establish fees sufficient to defray the actual cost to the department. The department based the proposed fees on the current administrative costs. The department proposed fees for specific licenses and processes to ensure that a licensee pays only for the services required from the department. Each license fee is based on the department's current cost to process the application and issue the license. It would not be reasonable to require a school to pay for services it does not need in an effort to subsidize schools that do need additional services.

A traffic violator school may set its classroom fees at any amount, presumably sufficient to support the business. With the advent of new technology for home study and internet, the percentage of violators that choose a classroom course has declined. The proposed fees for licensing/renewing classroom are less than the department's current administrative costs, because the department is implementing changes to streamline the process.

Comments Objecting to the Instructor License Fee

- Most instructors make around \$100 to teach a class, perhaps once every other month. Asking them to pay 1/2 of their class pay is unrealistic.

Commenters: L-1, L-12, L-13, L-14, L-15, L-16, L-17, L-18, L-19

Department's Response: The current fee for an instructor license is \$30 for a three year license. In this action, the fee for a three year license is \$50.00. Vehicle Code section 11208(b) requires the department to establish fees sufficient to defray the actual cost to the department. The department based the proposed fee on the current administrative costs. The department calculated the total average cost to be \$60, but established a somewhat lower fee to account for the anticipated reduction in administrative costs based on changes to streamline the licensing process.

- Increase to classroom instructor renewal fee will financially impact our business because the increase from \$31 to \$50 per instructor is a significant cost increase for classroom traffic school because many classroom schools have several instructors and we are being charged for each instructor's renewal when home study schools only have to pay for one instructor.

Commenters: F-1, E-3

- The fee for an annual instructor license should not be raised from \$20 to \$50 because it will have negative impact on classroom schools.

Commenters: L-21, H-2

Department's Response: Each traffic violator school is required to have one licensed instructor as a condition of licensing approval. This requirement is for every school, regardless of instructional modality. Some classroom schools have only one or two instructors; others have multiple instructors to cover multiple classroom locations. This is consistent with the business structure. Home study and internet courses may have one licensed instructor or may need to license additional instructors to meet instructor availability requirements. The number of instructors needed for any modality will be based on the size of the business operation.

- The classroom industry feels the online schools should cover the fees needed to monitor their services.

Commenters: F-1, E-3

Department's Response: The proposed fees reflect the department's cost of administering the traffic violator school program. It also provides for an administrative fee to be collected from each traffic violator by the courts to pay for all program costs except licensing. Most oversight activities are funded by this fee and not the licensing fees.

- There is little rationale for the increase from \$31 to \$50 per year, especially considering that an instructor does not need to be processed again or have his/her finger prints taken again. There is a short application process, but the applicant is already in the DMV system.

Commenters: E-2

Department's Response: The licensing process to renew an instructor is nearly identical to the original licensing process. The fact that an instructor does not have to resubmit fingerprints does not impact the department's process. In fact the fingerprint processing does not take place in the department. The department is still required to review the current record and changes to the criminal history for the past three years. The department calculated the total average cost for a renewal to be \$60, but established a somewhat lower fee to account for the anticipated reduction in administrative costs based on changes to streamline the licensing process.

- Raising the fees for instructors is also unfair: classroom schools will account for 2,000 instructors while home study will pay fees only on 200 instructors.

Commenters: H-1

Department's Response: Each traffic violator school is required to have one licensed instructor as a condition of licensing approval. This requirement is for every school, regardless of instruction modality. Some classroom schools have only one or two instructors; others have multiple instructors to cover multiple classroom locations. This is consistent with the business structure. Home study and internet courses may have one licensed instructor, or may need to license additional instructors to meet the requirement to have an instructor available during regular business hours to respond to curriculum questions. The number of instructor needed for any modality will be based on the size of the business operation.

Comments Providing Alternative Recommendations

- Proposes flat, single price renewal fee (not on a per location basis) which will be identical for both online and classroom providers.

Commenters: F-1, E-3

- A slight increase in this one time fee (if done without a per location classroom fee) for both online and classroom traffic schools would certainly be reasonable.

Commenters: F-1, E-3

Department's Response: The basic licensing costs are identical for all applicants, regardless of the instructional modality offered by the school. It is true that schools offering only home study and/or internet courses will not see the costs associated with licensing classrooms; however, schools that only offer classroom instruction will not incur the costs associated with the development of an interactive internet training program or the material publication and shipping costs common to a home study program. Each instructional modality has costs unique to that business structure.

- The period for licenses for TVS owners, operators and period of approvals for classroom locations shall extend for a two year period of time, not annually.

Commenters: E-1, E-4, E-5

Department's Response: Statute provides for a one year renewal of owner/operator licenses, but also authorizes the department to increase this to two years. Regulations were adopted to effectuate this change; however, the department received many complaints from the TVS industry. Concerns were raised that paying two years licensing fees at once is a financial hardship. This proposed action provides for a one year license. The return to a one year license term is intended to benefit schools that offer classroom instruction.

- The renewal fees for TVS classroom locations in section 345.00(a)(4) be set to no more than \$25 per year or \$50 for a 2-year renewal period.
Commenters: E-1, E-4, E-5

Department's Response: The department based the proposed fee for classroom renewal on the current administrative costs. The department calculated the total average expense to be \$120, but established a somewhat lower fee account for anticipated reduction in administrative costs based on changes to streamline the licensing process.

- The fees for any licensing modification for TVS operators (section 345.00(e)(2) be set to \$25 the same amount as that provided in section 345.00(e)(3) for instructors. There is no basis for any difference.
Commenters: E-1, E-4, E-5

Department's Response: The department based the proposed fees for modification of an operator or instructor license on the current administrative costs. The department calculated the total average expense for an operator change to be \$110, but established a somewhat lower fee account for anticipated reduction in administrative costs based on changes to streamline the licensing process. The department calculated the total average expense for an instructor change to be \$50, but established a somewhat lower fee account for anticipated reduction in administrative costs based on changes to streamline the licensing process.

The increased costs for a modification of an operator license are attributed to the requirement that operator changes be processed and approved by inspectors, while an instructor change is processed by headquarters staff at a lower cost.

- The renewal fee for instructors should be left at the current \$30 level, not the \$50 proposed in section 345.00(d)(2). There is no rational basis for an increase as the paperwork involved is essentially the same as the original application and little effort is required to update records.
Commenters: E-1, E-4, E-5

Department's Response: The current fee for an instructor license is \$30 for a three year license. The proposed fee for a three year license is \$50.00. Vehicle Code section 11208(b) requires the department to establish fees sufficient to defray the actual cost to the department. The department based the proposed fee on the current administrative costs. The department calculated the total average cost to be \$60, but established a somewhat lower fee account for anticipated reduction in administrative costs based on changes to streamline the licensing process.

- The DMV may want to consider slightly increasing the initial cost of applying for an original school owner and operator license
Commenters: E-2

Department's Response: The department based the proposed fees on the current administrative costs with some allowance for reduced costs based on program improvements and streamlining of licensing processes. It is not reasonable, or consistent with statutory authority, to charge fees to original applicants that are not based on the administrative costs to the department.

- The DMV may want to consider slightly increasing the home study and classroom renewal fee so that the fees are identical without charging for each classroom location.

Commenters: E-2

Department's Response: The department based the proposed fees on the current administrative costs with some allowance for reduced costs based on program improvements and streamlining of licensing processes. The renewal fees for all schools, regardless of instructional modality, are the same except for licenses associated with branch or classroom locations. Fees for licensing classrooms are on a per classroom basis and are based on the administrative costs to the department. As described above, home study and internet programs will have costs associated with that business structure, which do not apply to classroom instruction.

This action establishes fees for specific licenses and processes to ensure that a licensee pays only for the services required from the department. Each license fee is based on the department's current costs to process the application and issue the license. It would be inappropriate to attribute an administrative cost to schools that do not require a certain process or service.

Comments Suggesting Disproportionate Collection of Fees

- DMV will be generating new revenue from 600,000 additional online students along with both original and renewal home study licensing fees. These fees should adequately address any necessary cost adjustments now being passed disproportionately to classroom traffic schools.

Commenters: F-1, E-3

- Classroom traffic schools are facing large fee increases for the similar services, yet facing large cost differentials.

Commenters: F-1, E-3

- Fee structure is not equitable. Classroom TVS fees are rising disproportionately hurting solely classroom traffic schools.

Commenters: F-1, E-3

- Classroom TVS appear to be subsidizing the DMV's oversight of the online industry when it is the classroom schools contention that home

study should cover such differences since they asked for and secured DMV licensing.

Commenters: F-1, E-3

- Fees should be similar and not based upon the method or mode of your type of traffic school.
Commenters: F-1, E-3
- It certainly appears that the DMV is trying to levy these fees on the classroom side of the industry in order to fund other parts of the program, like the oversight of the internet courses.
- A classroom school must pay a fee per county whereas a home study school pays a single fee for all 58 counties.
Commenters: H-1
- The fee for instructors is going up from \$31 or \$33 to \$50. Classroom schools have many instructors, while home study schools are only required to have one.
Commenters: H-1
- The fees are one-sided, which benefit home study. The total fees should be the same for all schools that have state-wide access.
Commenters: H-1
- Classroom schools will pay a disproportionate amount of fees to the department, causing the classroom industry to dwindle because it cannot compete with internet and home study.
Commenters: L-21, H-2

Department's Response: This action establishes fees for specific licenses and processes to ensure that a licensee pays only for the services required from the department. Each license fee is based on the department's current costs to process the application and issue the license. It would be inappropriate to attribute an administrative cost to schools that do not require a certain process or service.

It also provides for an administrative fee to be collected from each traffic violator by the courts to pay for all program costs except licensing. Most oversight activities are funded by this fee and not the licensing fees. The basic licensing costs are identical for all applicants, regardless of the instructional modality. Each instructional modality has costs unique to that business structure.

Comments Relating to Two Year vs. One Year Licenses

- Why would the classroom industry merit paying for the implementation of AB 2499 - the home study industry?
Commenters: F-1, E-3
- Two year owner licenses works well and should not be changed. Two year period is reasonable for existing TVS programs.
Commenters: E-1, E-4, E-5
- It would be reasonable for a newly licensed TVS to have an annual renewal imposed for the first two years to give the department a basis for ensuring a new TVS understands and adheres to all applicable sections of the vehicle code and regulations.
Commenters: E-1, E-4, E-5
- Two year owner licenses works well and should not be changed. Two year period is reasonable for existing TVS programs.
Commenters: E-1, E-4, E-5
- It would be reasonable for a newly licensed TVS to have an annual renewal imposed for the first two years to give the department a basis for ensuring a new TVS understands and adheres to all applicable sections of the vehicle code and regulations.
Commenters: E-1, E-4, E-5
- The current two year renewal period for Owner and Operator licenses should be maintained.
Commenters: E-6

Department's Response: Statute provides for a one year renewal of owner/operator licenses, but also authorizes the department to increase this to two years. Regulations were adopted to effectuate this change; however, the department has received many complaints from the industry that paying two years licensing fees at once is a financial hardship. The return to a one year license term is intended to benefit schools that offer classroom instruction.

The one year term is designed to alleviate fiscal hardship for schools that offer classroom instruction. The department determined that it would be a more effective process if all schools, regardless of instructional modality or length of licensure, were held to the same licensing term.

Miscellaneous

- Traffic school industry is suffering from legislative TVS fee increases imposed on TVS violators of almost \$50 per person and these fees have reached a point where the average cost of a ticket and traffic school is approaching \$500.

Commenters: F-1, E-3

Department's Response: These regulations do not pertain to fee increases imposed by the courts on traffic violators; therefore, the department has no response to this comment.

- The fees are financially punitive to those that operate multi-classroom locations

Commenters: L-1

- There is no justification for an increased fee.

Commenters: L-1

- This 100% increase in fees is unsustainable within our industry.

Commenters: L-1

Department's Response: Vehicle Code section 11208(b) requires the department to establish fees sufficient to defray the actual cost to the department. The department based the proposed fees for classroom licensing and renewal on the current administrative costs. The costs related to classroom locations go beyond the obvious inspection and application processing costs. The department incurs additional administrative costs tracking the use of classroom locations for the TVS location list and processing and reviewing classroom schedules. In addition, the OLSIS requires significant modifications to provide specific classroom and schedule information to the public. The licensing fee for a classroom is attributed to the increased labor to update OLSIS with current classroom and schedule information. This cost is not associated with the TVS home study or internet programs. While TVS fees have not increased in the past 25 years, the administrative costs of the program have increased.

- You propose this change in the present economic conditions in California and this nation.

Commenters: E-6

Department's Response: The department based the proposed fee for classroom licensing and renewal on the current administrative costs.

- Are you trying to put more classroom based traffic schools out of business

Commenters: E-6

Department's Response: The proposed fees are based on the administrative costs to the department and are not directed at creating an advantage or disadvantage for any portion of the industry. The basic licensing costs are identical for all applicants, regardless of the instructional modality offered by the school.

- The department should consider the struggle the classroom industry has to compete with internet and home study program. Classroom instruction is labor intensive while internet and home study rely on technology.

Commenters: L-1, H-2

Department's Response: The department agrees with the commenter's assessment of the differences between the business models for classroom, home study and internet programs. However, the department is not mandated to provide an artificial level playing field. The department is mandated to establish fees in the amount sufficient to defray the department's costs. . The department based the proposed fees on the current administrative costs. The department proposed fees for specific licenses and processes to ensure that a licensee pays only for the services required from the department. It would not be reasonable to require a school to pay for services it does not need in an effort to subsidize a school that needs additional services.

Comments Supporting the Department's Fee Structure

- Agrees that there are inherent differences between home study and classroom business models, such as the need for classroom schools to have multiple instructors as opposed to one for a home study school.

Commenters: H-3

Department's Response: Each traffic violator school is required to have one licensed instructor as a condition of licensing approval. The number of instructors needed for any modality will be based on the size of the business operation

- The department's only job is to design a fee structure that defrays the administrative cost of the program, in spite of differences between the programs.

Commenters: H-3

Department's Response: The department agrees. The statutory requirement is to establish fees that are sufficient to cover the department's administrative cost.

- The department has responsibility to ensure that a classroom location is safe, there is acceptable minimum access—these things do not apply to home study courses.

Commenters: H-3

Department's Response: The department agrees. The fees for classroom licensing/renewal are based on current department administrative costs, with a slight reduction to account for anticipated streamline of the licensing process.

- The APA does not have a requirement for fairness or a level playing field. It does require that the department administer the program and defray its costs.

Commenters: H-3

Department's Response: The department agrees. Under the APA the department must establish fees based on the requirements of statute.

- The department is required to adopt fees that are sufficient to cover the cost of administering the program. Creating a level playing field is not the department's responsibility.

Commenters: H-3

- If the department were to change the fees to create a level playing field as has been suggested, it would be subject to legal challenges. It would not be legal.

Commenters: H-3

- The fees proposed are set at an appropriate level; the department should continue to set fees as necessary to regulate the industry.

Commenters: H-3

Department's Response: The department agrees. The statutory requirement is to establish fees that are sufficient to cover the department's administrative costs. Under the APA the department must establish fees based on the requirements of statute. The department is not charged with creating a level playing field by manipulating licensing fees to do so and it would not be consistent with the statutory mandate.

4) Determination of Alternatives

No reasonable alternative considered by the department, or that has otherwise been identified and brought to the attention of the department, would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. During the rulemaking process, no alternative that would lessen the adverse economic impact on small business was submitted.